

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2011-73-T - ORDER NO. 2011-424

JUNE 16, 2011

IN RE: Application of The Pendergrass Moving	)	ORDER GRANTING
Company, LLC, 1456 Waters Edge Drive,	)	CERTIFICATE
Charleston, South Carolina 29492 (Mailing	)	
Address: Post Office Box 1024, Mount	)	
Pleasant, South Carolina 29465) for a Class	)	
E (Household Goods) Certificate of Public	)	
Convenience and Necessity	)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") on the Application of The Pendergrass Moving Company, LLC ("Applicant"), of 1456 Waters Edge Drive, Charleston, South Carolina 29492, for a Class E Certificate of Public Convenience and Necessity for authority to transport household goods as defined by 26 S.C. Code Ann. Regs. 103-210(1) between points and places in Charleston, Berkeley, and Dorchester Counties in South Carolina. The Applicant was instructed to publish a Notice of Filing in a newspaper of general circulation in the service area desired. The Notice of Filing was published and instructed the public as to how to file pleadings to participate in the proceedings on the Application. There were no requests by a party to intervene in this proceeding.

**EVIDENCE OF RECORD**

A hearing on the Application was held on June 1, 2011. The Honorable John E. Howard, Chairman, presided. Present representing the Applicant was David Popowski,

Esquire. Appearing on behalf of the Office of Regulatory Staff (“ORS”) was Jeffrey Nelson, Esquire.

Testifying for the Applicant was its member, Mark Pendergrass (“Pendergrass”). Pendergrass stated that he holds 49% of the shares of the Applicant and his wife Amanda Pendergrass holds 51% of the shares. They are the current employees of the Applicant, and the Applicant has made arrangements to hire additional employees pending the receipt of its Certificate. Following his graduation from the College of Charleston, Pendergrass has worked for 14 years in the household goods moving industry touching on all facets of it. Amanda Pendergrass has also worked for three years in the industry. Pendergrass stated that the Applicant has no outstanding judgments pending against it and, according to its amended balance sheet dated May 30, 2011, has a total equity of \$63,441.24. Pendergrass further stated that he is familiar with all of the pertinent statutes and regulations, including safety regulations, in South Carolina and that the Applicant would operate in compliance with these statutes and regulations. The Applicant will apply to be a member of the South Carolina Tariff Bureau, Inc. and understands that it must charge only the rates and charges contained in that tariff. The Applicant currently owns a 2004 Kenworth 24-foot straight truck and will purchase or lease additional equipment as needed. The Applicant has insurance coverage for liability and cargo with Auto-Owners Insurance Company that exceeds the Commission’s requirements.

Regarding the public convenience and necessity, Pendergrass testified that there is a need for an additional household goods mover in Charleston, Berkeley, and Dorchester Counties. He stated that indeed an existing mover just recently contacted him

because that mover did not have sufficient equipment available to handle the customers that sought its services. In addition, Pendergrass foresees that the new presence of the Boeing Company in that area will increase the demand for household goods movers. Because the Applicant has applied for only three counties, it was not necessary that a shipper support witness testify. See Commission Order No.1999-654, dated September 15, 1999.

Testifying for the Office of Regulatory Staff was Transportation Program Manager, George Parker. Mr. Parker stated that he visited the Applicant in Charleston where he met with Mr. and Mrs. Pendergrass, inspected the Applicant's truck and discussed their Application. Mr. Parker stated that he found all aspects of the Applicant's proposed operation to be in order.

Applicant has been issued a Certificate MC No.733436 by the United States Department of Transportation and Federal Motor Carrier Administration ("FMCSA"), granting it authority as a common carrier to transport household goods between points in the United States in interstate commerce. As a result, the Applicant is in what is known as the 18-month program for a safety review. The Commission's Regulation 103-150 (2)(A), *Beginning Operations Under a Certificate*, requires evidence of an acceptable safety rating via a safety audit by the South Carolina State Transport Police before a Certificate is issued. Mr. Parker testified that because the Applicant holds an FMCSA certificate, its safety audit could be delayed for 18 months. Based on the testimony of the witnesses and lack of objection from ORS, Applicant's counsel moved pursuant to Commission Regulation 103-803, *Waiver of Rules*, that the Commission waive the

requirement that an acceptable safety rating be issued prior to granting a Certificate. Counsel for the ORS consented subject to the condition that, should the safety audit result in an unsatisfactory rating, then Applicant's Certificate would be suspended. The Applicant agreed to that condition.

### **FINDINGS OF FACT**

After full consideration of the Application, the testimony presented, and the applicable law, the Commission makes the following findings of fact:

1. The Applicant seeks authority to transport household goods as defined by 26 S.C. Code Ann. Regs. 103-210(1) between points and places in Charleston, Berkeley, and Dorchester Counties in South Carolina.

2. The Applicant is fit, willing, and able to provide and properly perform the services which it seeks to provide. "Fitness" has been demonstrated since the record contains (1) a certification that the Applicant, through its principal, is familiar with the regulations and statutes governing for-hire motor carrier services; and (2) evidence that there are no outstanding judgments pending against the Applicant or its principals. "Able" was demonstrated by the evidence of record which reveals that the Applicant has the present ability and necessary equipment and personnel with which to perform moving services, and has similarly arranged for insurance which in this case exceeds the minimum requirements set by this Commission. The evidence of record also indicates that the Applicant possesses sufficient financial resources necessary to conduct for-hire motor carrier operations in South Carolina. Moreover, "willingness" was demonstrated by filing of the application and the testimony of the witnesses indicating the Applicant's

desire to invest its resources to operate as a household goods motor carrier in South Carolina. The ORS did not contest the fitness, ability, and willingness of the Applicant to provide the services requested, and this finding of fact is uncontested in the record.

3. The services proposed by the Applicant are required by public convenience and necessity. We find that the witness presented on behalf of the Applicant was credible and established that the public convenience and necessity require the issuance of the certificate requested by the Applicant. The Applicant was knowledgeable of the need for an additional household goods mover in South Carolina. Accordingly, the Commission finds that the services proposed by the Applicant are required by the public convenience and necessity.

### **CONCLUSIONS OF LAW**

Based upon the above Findings of Fact and the applicable law, the Commission concludes as follows:

1. The Commission concludes that Applicant has demonstrated that it meets the requirements of fit, willing, and able as set forth in 26 S.C. Code Ann. Regs. 103-133 (Supp. 2010).

2. The Commission concludes that Applicant has sufficiently demonstrated that the public convenience and necessity requires the Applicant's proposed services as reflected in its application.

3. Based on the conclusions above, that the Applicant has demonstrated that it meets the requirements of fit, willing, and able and that it has demonstrated that the public convenience and necessity require the services it proposes, the Commission

concludes that a Class E Certificate of Public Convenience and Necessity should be granted and that the Applicant should be granted authority to transport household goods between points and places in Charleston, Berkeley, and Dorchester Counties in South Carolina, as defined in R. 103-210(1). This grant of authority is contingent upon compliance with all Commission regulations as outlined below. The Commission grants the Applicant's motion pursuant to Commission Regulation 103-803, *Waiver of Rules*, to waive the requirement of Commission Regulation 103-150(2)(A), *Beginning Operations Under a Certificate*, and thus a safety audit is not required prior to the issuance of a Certificate. If, however, after the safety audit takes place, Applicant receives an unsatisfactory rating, the Certificate will be suspended.

IT IS THEREFORE ORDERED:

1. That the Application of The Pendergrass Moving Company, LLC for a Class E Certificate of Public Convenience and Necessity be, and hereby is, approved.
2. Except for the safety rating, Applicant shall file the proper insurance and other information required by S.C. Code Ann. Section 58-23-10 *et. seq.* (1976), as amended, and by 26 S.C. Code Ann. Regs. 103-100 through 103-241 of the Commission's Rules and Regulations for Motor Carriers, as amended, within sixty (60) days of the date of this Order, or within such additional time as may be authorized by the Commission.
3. Upon compliance with S.C. Code Ann. Section 58-23-10 *et. seq.* (1976), as amended, and the applicable Regulations for Motor Carriers, S.C. Code Ann. Vol. 26

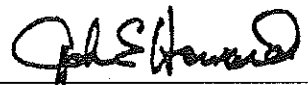
(1976), as amended, a Certificate shall be issued to Applicant authorizing the motor carrier services granted herein.

4. Prior to compliance with the above-referenced requirements and receipt of a Certificate, the motor carrier services authorized herein shall not be provided.

5. Failure of the Applicant either (1) to complete the certification process by complying with the Commission requirements of causing to be filed with the Commission proof of appropriate insurance within sixty (60) days of the date of this Order or (2) to request and obtain from the Commission additional time to comply with the requirements of the Commission as state above, shall result in the authorization approved in the Order being revoked.

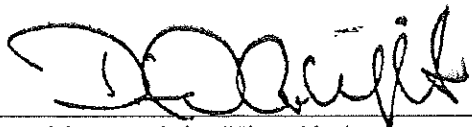
6. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:



John E. Howard, Chairman

ATTEST:



David A. Wright, Vice Chairman  
(SEAL)